

**REMARKS OF SENATOR ALBERTA DARLING
TO THE ASSEMBLY COMMITTEE ON CRIMINAL JUSTICE
2007 ASSEMBLY BILL 209**

May 23, 2007

Good morning and thank you for the opportunity to testify on 2007 Assembly Bill 209 which was recommended by the Joint Legislative Council's Special Committee on Review of Crimes Against Children.

I chaired the committee which, along with several legislators, included prosecutors, a judge, a law enforcement officer, and representatives of the State Public Defender's office and the Wisconsin Coalition Against Sexual Assault.

I will describe the major provisions of Assembly Bill 209. The report you received details all of the provisions.

Sexual Assault of a Child

The bill reconciles the provisions of 2005 Wisconsin Acts 430, 431, and 437 relating to the offense of first-degree sexual assault of a child and GPS tracking for persons convicted of first-degree sexual assault of a child. The bill also makes some substantive changes to these provisions agreed to by the committee.

- First, the bill clarifies that harm to the victim caused by the offender at the time of a first-degree sexual assault of a child, and not necessarily caused by the

sexual intercourse or contact, can satisfy the great bodily harm element under the offense created by 2005 Wisconsin Act 437.

- Second, the bill eliminates the separate definition of “sexual intercourse” that was created by 2005 Wisconsin Act 430 for prosecutions for first-degree sexual assault of a child, but maintains this definition for purposes of GPS tracking requirements.
- Finally, the bill specifies that mandatory minimum terms of confinement in prison for first-degree sexual assault of a child do not apply if the offender was under 18 years of age at the time of the violation.

Prosecution and Statute of Limitations

The bill reconciles provisions of 2005 Wisconsin Acts 60 and 276, relating to the time limits for prosecuting first-degree sexual assault of a child and the various offenses of engaging in repeated acts of first-degree sexual assault of a child. The bill clarifies that there is no time limit for prosecuting an offense of first-degree sexual assault of a child. In addition, the bill:

- Specifies that a prosecution may be brought for a crime that is related to a first-degree sexual assault of a child violation within 12 months after a DNA profile is matched to an identified person for the sexual assault violation; and

- Allows a prosecution to be brought for second-degree sexual assault of a child, a crime that is related to the sexual assault violation, or both, within 12 months after a DNA profile is matched to an identified person for such a violation.

Also, with two exceptions, the bill, eliminates the prohibition against prosecutors charging a violation of engaging in repeated acts of sexual assault of the same child in the same action as other specified sex offenses.

Modifications to Other Offenses Against Children

The bill makes the following additional changes to ch. 948, relating to crimes against children:

- Increases the penalty for intentionally causing great bodily harm to a child from a Class E felony to a Class C felony.
- Clarifies the offense of soliciting a child for prostitution.
- Creates separate penalty classes for neglect of a child and leaving a child unattended in a child care vehicle when bodily harm or great bodily harm result.

For purposes of sentencing a child sex offender, the bill generally requires the court to order a presentence investigation report that includes an assessment of the risk of the defendant committing another sex-related crime against a child.

Finally, relating to the sex offender registry, the bill removes the offenses of child enticement with the intent to cause bodily or mental harm to a child and child enticement

with intent to give or sell a controlled substance or controlled substance analog to a child from the list of offenses requiring mandatory sex offender registration.

Thank you again for the opportunity to testify today. I am happy to answer questions. Also, Anne Sappenfield and Larry Konopacki are here to answer questions, as well.